

**Board of Selectmen's Meeting Minutes
December 30, 2009
Harpswell Town Office**

Selectmen Present: James S. Henderson, Mark E. Wallace and Elinor Multer

Staff Present: Kristi Eiane, Town Administrator

Call to Order and Pledge of Allegiance: The meeting was called to order at 4:30 p.m.

1. **Adoption of the Agenda:** Selectman Multer moved to adopt the agenda, seconded by Selectman Wallace; motion passed 3-0.

2. **Consider Maine Municipal Association Response to Legal Challenge of West Harpswell School Closure Figure:** Chairman Henderson raised two matters before the Board with respect to the West Harpswell School closure matter: (1) was the process flawed in some way; (2) were cost issues accurately determined. It was noted that the Town Administrator had been asked to solicit advice from Maine Municipal Association (MMA) regarding the Town's challenge of the calculation for keeping West Harpswell School open—a calculation reviewed and approved by the Commissioner of Education. MMA informed the Town Administrator that the Town might be able to file a complaint under the Maine Administrative Procedures Act, would likely have 30 days from the decision in which to act, and should consult with the Town Attorney if that was a direction that the Town wanted to go. The Town Administrator told the Board that since the Commissioner's letter of decision was dated December 4, she had been informed by the Town's Attorney that the Board would need to consider making a decision by January 4, 2010.

The Chair invited public comments which are summarized as follows:

Leon Ogrodnik questioned the process and the inadequacy of the checks and balances, asking for an analysis to be performed. He believed that more detail should have been provided to the Commissioner and that this could very well be a legislative matter.

With regard to the role of the Commissioner, Selectman Henderson read from 20-A M.R.S.A. § 1512 (2) "The determination of costs is subject to approval of the commissioner. The cost to be borne by the municipality voting to keep a school open is the amount that would be saved if the school were closed."

Kay Ogrodnik stated that the audit figures should be checked by Selectmen. Selectman Henderson observed that this would require to employ an accountant to do the work.

Carmen Hetherington stated that the numbers do not add up and that somebody should make sure that the numbers are correct. She did not believe any rules were violated, but she doesn't like the process and would like to see the process improved.

Elizabeth Davis stated she has not liked the process and that the process needs to be questioned and she questions the spirit in which it has been conducted indicating that while the decision may have been good for the District it was not for the children of Harpswell.

Robert McIntyre commented that there was no substantive review of the figures by the Commissioner's Office and no testing of the information. He questioned the savings calculation claiming that net savings are not being looked at and new costs are systematically ignored except for transportation which he believes has been underestimated. He stated that the amount that would be saved as referenced in statute is in conflict with the treatment of the principal position, and that it was the Selectmen's fiduciary responsibility to look into the numbers.

Carmen Hetherington followed up on the issue of the principal cost savings calculation stating that because the consolidated school would have a fulltime principal the cost savings reflected in the closure report is not a true cost savings figure.

Chairman Henderson commented that he believes the definition of savings has been interpreted incorrectly under the statute particularly as it relates to the principal position and he questioned if it would be reasonable to challenge this in court. Chairman Henderson asked the Board if it would consider authorizing the Town Attorney to file a complaint indicating that the calculation of savings for the principal is not in fact savings as required by law.

Selectman Multer questioned the chances of winning a case and the costs of a case, and asked for an opportunity to receive advice from the Town Attorney on this matter.

Chairman Henderson moved to direct the Town Administrator to establish a meeting tomorrow morning or on Monday by conference call; it was seconded by Selectman Multer and passed 3-0.

Joseph Stevens asked the Board to consider taking a position based on their discussions. The Board took no action on his request.

Selectman Multer stated that it would be unlikely she would agree to move forward with litigation.

3. Authorization of the Warrant: Warrant # 88 in the amount of \$36,554.84 was unanimously approved by Selectmen. Warrant # 89 in the amount of \$4,260.59 (for the Recycling Center/Transfer Station) was approved 2-0 by Chairman Henderson and Selectman Multer with an abstention by Selectman Wallace. Payroll Warrant #1 for \$14,114.88 was noted for the record [In addition there was warrant # 1 in the amount of \$3,844.54 for payroll taxes].

4. Adjournment: The meeting was adjourned by unanimous vote at approximately 6:00 p.m.

Respectfully submitted,

Kristi K. Eiane, Town Administrator